

1 Q. I understand, but you can't say for certain that  
2 it was because you didn't ask him?

3 MR. CLARK: Objection to the form.

4 Q. (BY MR. FORMAN) Correct?

5 A. I don't understand. I don't understand the  
6 question, I mean.

7 Q. It's already on the record. I'll strike it.

8 Let me direct your attention back to Defense  
9 Exhibit No. 8. You contend that this written statement  
10 constitutes a complaint of alleged sexual harassment,  
11 correct?

12 A. Yes, sir.

13 Q. Can you please identify for the jury where in  
14 this five-page handwritten statement that you prepared  
15 that you complain of alleged sexual harassment?

16 A. (Witness reviews document.) I've seen a lot as  
17 an assistant manager concerning salaried management and  
18 hourly. I've endured the dirty jokes and snide remarks.  
19 Where nothing was done, deemed acceptable as long as it  
20 was kept in-house.

21 Q. Okay. Where is it that you complain that you're  
22 being sexually harassed?

23 A. I think the dirty jokes and the snide remarks.

24 Q. Do you indicate in here that the snide remarks  
25 were sexual in nature?

1 A. No, I do not.

2 Q. Do you indicate in here that you were offended by  
3 the dirty jokes?

4 A. I think the term "I've endured," yes.

5 Q. You told us you didn't have any discussions with  
6 Mr. Murphy about the contents of what's been marked as  
7 Defense Exhibit No. 8, correct?

8 A. Right.

9 Q. You don't know if the information you provided in  
10 Defense Exhibit No. 8 was interpreted by Mr. Murphy to  
11 be a complaint of sexual harassment, do you?

12 A. He didn't know I was complaining. Is that what  
13 you're asking?

14 Q. You don't know whether he did or didn't, do you?

15 A. No.

16 Q. You knew the term "sexual harassment" as of May  
17 5th, 2004, correct?

18 A. Yes.

19 Q. Nobody told you what to write in this statement  
20 on May 5th, 2004, did they?

21 A. No.

22 Q. You chose what words to put in here, correct?

23 A. Yes.

24 Q. And as of this time, you were a co-manager,  
25 weren't you?

1 A. Yes.

2 Q. Co-manager is essentially a store manager in  
3 training, correct?

4 A. I know them to be one step under the store  
5 manager.

6 Q. You never heard that a co-manager is essentially  
7 a store manager in training?

8 A. No, sir.

9 Q. As an assistant manager, you're responsible for  
10 overseeing certain areas within the store, correct?

11 A. Yes, sir.

12 Q. And a co-manager, you oversee the entire store,  
13 correct?

14 A. Depending on what store you're in.

15 Q. Was there more than one co-manager at the  
16 Rockwall store?

17 A. Yes, sir.

18 Q. Who was the other co-manager?

19 A. John Farrar.

20 Q. Do you indicate in your statement of Defense  
21 Exhibit No. 8 that the dirty jokes were jokes that were  
22 sexual in nature?

23 A. Some of them were, yes.

24 Q. My question is: Do you indicate in your  
25 statement that's been marked as Defense Exhibit No. 8

1 that the, quote, dirty jokes, end quote, were sexual in  
2 nature?

3 A. I'm sorry. Can you repeat that again?

4 Q. Do you indicate -- strike that.

5 Please identify for us where in Defense  
6 Exhibit No. 8 that you explained that the, quote, dirty  
7 jokes are sexual in nature?

8 A. It's not.

9 Q. Do you indicate anywhere in Defense Exhibit No. 8  
10 that you believe that you are being harassed on account  
11 of your sex?

12 A. I don't believe so.

13 Q. When you say that Defense Exhibit No. 8  
14 constitutes a complaint of sexual harassment, you make  
15 that statement because you believe that Mr. Murphy  
16 should have interpreted this statement to be a complaint  
17 of sexual harassment, correct?

18 A. Correct.

19 Q. Even though you didn't actually complain of  
20 sexual harassment in this statement, correct?

21 MR. CLARK: Objection as to form.

22 A. I don't understand what you're asking me.

23 Q. (BY MR. FORMAN) Is there any reason why you  
24 didn't just say you feel like you're being sexually  
25 harassed when you prepared what's been marked as Defense



1 open door complaints?

2 A. Do you mean if -- if an hourly associate  
3 approaches me or --

4 Q. Yes.

5 A. We're to report it.

6 Q. Okay. It is true that under the open door  
7 policy, associates are directed to go to a salaried  
8 member of management if they have a complaint, a concern  
9 or a grievance, correct?

10 A. Correct.

11 Q. And so if you became an assistant manager --  
12 strike that.

13 So once you become an assistant manager, you  
14 then, yourself, are placed in the position of being  
15 responsible to field open door complaints, correct?

16 A. What do you mean by "field"?

17 Q. You had a responsibility -- strike that.

18 As an assistant manager, associates were  
19 instructed that if they had an open door complaint, they  
20 could go to, among other managers, yourself?

21 A. Yes.

22 Q. And it would be your responsibility to handle  
23 that open door complaint, correct?

24 A. No. I would report it.

25 Q. Okay. Make sure -- I think we're saying the same

1 completion of the CBLs, the interactive CBLs, you're  
2 tested on the information that was contained in it?

3 A. Yes. On some of them we were.

4 Q. In fact, you as an assistant manager trainee were  
5 required to get a passing grade on certain CBLs,  
6 correct?

7 A. On all of them, yes.

8 Q. If you did not pass or get a passing grade, you  
9 would not have gone from an assistant manager trainee to  
10 a member of management or an assistant manager, correct?

11 A. No. You kept taking the CBL until you passed it.

12 Q. Okay. And if you didn't pass it, you couldn't go  
13 to the next level, correct?

14 A. It never stated if we didn't pass our CBLs it  
15 would deter us from completing the program.

16 Q. But you took and passed all the CBLs when you  
17 were an assistant manager trainee, right?

18 A. Yes, I did.

19 Q. You told us earlier that the first time that you  
20 were sexually harassed was when you became an assistant  
21 manager, correct?

22 A. Yes.

23 Q. Which was after you had completed this training  
24 as an assistant manager trainee, correct?

25 A. Yes.

1 Q. So as of the time that you were being sexually  
2 harassed, you were aware of Wal-Mart's open door policy,  
3 correct?

4 A. Yes.

5 Q. And as of the time you were being sexually  
6 harassed, you were aware of Wal-Mart's inappropriate  
7 conduct and sexual harassment policy, correct?

8 A. Yes.

9 Q. And you knew especially as a member of management  
10 that if there was any harassment or discrimination  
11 taking place in the workplace that you were required to  
12 report that up the chain, correct?

13 A. Yes.

14 Q. And just so we're clear, the open door policy at  
15 Wal-Mart provides that you should go to a member of  
16 management with regard to any concern, grievance,  
17 complaint, right?

18 A. Yes.

19 Q. And it expressly states that you could go to any  
20 level of management. There's no chain of command that  
21 needs to be followed, correct?

22 A. Yes.

23 Q. And, in fact, as a member of management yourself,  
24 even today, it is your responsibility to remind your  
25 associates of the open door policy, correct?

1 A. Yes.

2 Q. And it is your responsibility to inform your  
3 associates if they disagree with something that they  
4 could go to any member of management about that,  
5 correct?

6 A. Yes.

7 Q. And they're not limited to the store with regard  
8 to that complaint, correct?

9 A. Yes.

10 Q. In fact, you as a member of management have the  
11 responsibility of making sure that the associates know  
12 that they could call the ethics hotline on a toll-free  
13 number, correct?

14 A. Yes.

15 Q. And the ethics hotline, just so we're clear, is a  
16 toll-free number to Wal-Mart's home office, correct?

17 A. I believe it is.

18 Q. And it is your job to make sure that the  
19 associates know who the district manager is over the  
20 store, correct?

21 A. Yes.

22 Q. Who the regional personnel manager is over the  
23 store?

24 A. Yes.

25 Q. And the reason you're required to make sure that



1 associates know these names or individuals is so that if  
2 they have an open door complaint, they have the ability  
3 to go to them, correct?

4 A. Yes.

5 Q. You knew all of this during the period of time  
6 that you were being sexually harassed, correct?

7 A. Yes.

8 Q. And yet you did not complain during the period of  
9 time that you were being sexually harassed, correct?

10 A. Correct.

11 Q. Why not?

12 A. I wanted to be promoted.

13 Q. Explain what that means.

14 A. I didn't want to be moved out of the store. In  
15 other words, I just felt that hard work would get me to  
16 that next level. I don't want -- I didn't want to be  
17 moved from store to store and have to prove myself over  
18 and over and over again. I just wanted to be promoted.

19 Q. Okay. I'm asking you to explain to us how --  
20 strike that.

21 As a -- when you learned about Wal-Mart's  
22 open door policy and inappropriate sexual -- strike  
23 that.

24 When you learned about Wal-Mart's open door  
25 policy -- strike that.

1 First of all, you first learned about  
2 Wal-Mart's open door policy on the very first day you  
3 started working with Wal-Mart, correct?

4 A. Yes.

5 Q. And you first learned of Wal-Mart's inappropriate  
6 conduct or sexual harassment policy, if not on the first  
7 day you started working, certainly within the first  
8 week, correct?

9 A. Uh-huh.

10 Q. And that was information that you were reminded  
11 of throughout the course of your employment with  
12 Wal-Mart, correct?

13 A. Yes.

14 Q. And, again, certainly while you were an assistant  
15 manager trainee, you were reminded of those policies and  
16 their significance, correct?

17 A. Yes.

18 Q. And one of the things that is emphasized through  
19 the open door policy and the sexual harassment or  
20 inappropriate conduct policy is that there can be no  
21 retaliation for anybody utilizing those policies,  
22 correct?

23 A. Correct.

24 Q. In fact, as a member of management, you know that  
25 any retaliation by any supervisor or manager in response

1 to an open door complaint will result in disciplinary  
2 action up to and including termination?

3 A. Yes.

4 Q. Now, I want you to explain to us why it is that  
5 you did not complain during the period of time that you  
6 believed you were being sexually harassed. I know you  
7 said you wanted to be promoted, but that does not  
8 explain to us why it is that you did not utilize these  
9 policies that you knew about for years.

10 A. Just that I -- I didn't want to -- to have to  
11 move from store to store. And I was uncertain as to  
12 really what to do. You can do CBLs and do CBLs and  
13 still there's some level of uncertainty as to what to  
14 do. I just wanted to be promoted.

15 Q. Okay. Are you -- I still don't understand. Did  
16 you make some sort of assumption that if you complained,  
17 that would in some way impact your ability to get  
18 promoted? I don't understand what you mean. I'm asking  
19 you please explain it.

20 A. I felt if I made any trouble, then, yes, it would  
21 impact it.

22 Q. Okay. That was just an assumption that you made,  
23 correct?

24 A. Well, I've heard -- I heard stories about Ronnie  
25 and if people made any trouble in the store, and, yes, I